

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the 47 CFR Part 97)	
Amateur Radio Service and/or)	RM - 10521
Amendment of the 47 CFR Part 95)	
Subpart B Family Radio Service)	
to Permit Non-Amateur Non-United States)	
Resident Foreign Nationals Access to the)	
446.0 - 446.1 MHz Band)	

PETITION FOR RULEMAKING

Submitted by:

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January 2, 2002

I.

INTRODUCTION

1. Before the Federal Communications Commission (Commission) is this Petition for Rulemaking (**PETITION**) requesting amendment of the 47 CFR Part 97 Amateur Radio Service (ARS) and/or amendment of 47 CFR Part 95 Subpart B Family Radio Service (FRS) rules to allow visiting/transient/tourist non-amateur non-United States (US) resident foreign nationals access to certain frequencies within the 446.0 - 446.1 MHz band for the use of license exempt International Telecommunications Union (ITU) Region 1 Conference of European Posts and Telecommunications Administrators' (CEPT) European Radiocommunications Committee (ERC) of Decisions adopted [ERC/DEC/(98) 25¹, 26² and 27³] and European Telecommunications Standards (ETS) Institute (ETSI) approved [technical standard ETS 300 296]⁴ 446 MHz Personal Mobile Radio (PMR 446) service two-way transceivers.

II.

PETITIONER QUALIFICATIONS

2. Petitioner is an unlimited licensed, board certified and actively practicing General Medicine/Family Practice Physician and Surgeon. Petitioner holds the academic faculty appointment of Assistant Clinical Professor, Department of Family Medicine, Georgetown University School of Medicine. Petitioner holds the current positions of Virginia [State] Osteopathic Medical Association (VOMA) Delegate and Delegation Vice-Chairman to the [National] American Osteopathic [Medical] Association (AOA) House of Delegates. Petitioner has held the previous positions of President (CY'94) – Alexandria (VA) Medical Society, Vice-Councilor (EY'95) - Medical Society of Virginia 8th U.S. Congressional District, Chairman – AOA Technology and Health Care [Telemedicine] Task Force, and Executive Member - AOA Council on Federal Health Programs.

3. Petitioner was selected/elected and currently serves as the Special Emergency Radio Service Representative – RPRC, and Medical Profession Representative - Technical Committee, of the National Public Safety Planning Advisory Committee's (NPSPAC) Region-20 [State of Maryland, Washington, DC, Northern Virginia] 821 MHz Public Safety Regional Plan Review Committee (RPRC), for the development and implementation of a Public Safety National/Regional Plan (GN Docket No. 90-7) for the use of the 821-824/866-869 MHz bands by the Public Safety Services pursuant to the Report and Order in GN Docket No. 87-112. Petitioner has previously served as Chairman - Legislative/Regulatory Affairs, Region-20 821 MHz Public Safety from 1990 to 2000.

4. Petitioner is also a First Class Telecommunications Engineer, certified by the National Association of Radio and Telecommunications Engineers (NARTE), possessor of a First Class Certificate of Competency, issued by the Association of Public Safety Communications Officials, Inc. - International (APCO), and Fellow of The Radio Club of America. Petitioner has over 25 years experience in the telecommunications field with many of these years spent actively participating in Commission proceedings.

5. Petitioner is Commission licensed in the Amateur Radio (ARS), Business Radio (BRS), General Mobile Radio (GMRS) and Special Emergency Radio (SERS) services. Petitioner has taken examination for and has been issued the Commission's commercial GMDSS Radio Maintainer, GMDSS Radio Operator, and General Radiotelephone Operator Licenses. It is with having the above extensive expertise in dealing with personal, business, medical and emergency/public assistance communications matters that this Petitioner is qualified to submit the following **PETITION**.

III.

PETITION FOR RULEMAKING

6. In 1995, the Commission issued a Notice of Proposed Rulemaking (**NPRM**) proposing the creation of a Family Radio Service (FRS) using select frequencies from the 462.5500 - 467.7500 MHz GMRS band⁵. After extensive deliberations in that proceeding⁶, the Commission adopted the FRS Report & Order (FRS R&O)⁷ permitting the manufacture and use of license exempt radios having fourteen (14) - 12.5 KHz offset channels spaced 25 KHz apart⁸, 12.5 KHz authorized bandwidth⁹, and a restricted output power of 0.5 watts Effective Radiated Power (ERP)¹⁰ employing an integral antenna.¹¹

7. In 1998, the CEPT/ERC of Decisions proposed and adopted a similar 0.5 Watt ERP, 12.5 KHz authorized bandwidth, license exempt, 446 MHz personal mobile radio service called the PMR 446¹². In 1999, the United Kingdom (UK) adopted a 446 PMR service¹³ in compliance with the CEPT/ERC of Decisions.¹⁴ Unlike the Commission's adopted FRS, the PMR 446 utilizes eight (8) - (+/-) 0.0625 MHz offset channels, spaced 12.5 KHz apart, in the 446.0 - 446.1 MHz band¹⁵.

8. In ITU Region 1¹⁶, for which Europe resides within, the 446.0 - 446.1 MHz band has been allocated to the non-amateur land mobile radio services, of which the PMR 446 falls within¹⁷. In ITU Region 2¹⁸, for which the United States resides within, the 446.0 - 446.1 MHz band is allocated to the ARS¹⁹. Therefore, the use of license exempt FRS radios within ITU Region 1 and the use of license exempt PMR 446 radios within ITU Region 2 are, respectively, illegal. However, these facts are generally unknown by the majority of the public who use these low-power transceivers.

9. This Petitioner had the opportunity of traveling to the UK in March 1998 and Walt Disney World (WDW) Orlando, Florida in August 2001. On the UK visit,

numerous United States citizens were operating their FRS radios, in violation of British radio regulations. Conversely this Petitioner was able to receive, via ARS 440 MHz UHF equipment at WDW, extensive transmissions from PMR 446 radios clearly operated by foreign nationals from the UK and France, operating in violation of the Commission's ARS rules and regulations.

10. There appears to be no effort on the part of the Commission, or United States Customs authorities, to stop the illegal importation and use of these PMR 446 radios in the US. If the Title 47 Code of Federal Regulations (CFR) Part 97 ARS rules and regulations are not to be enforced, or more appropriately are deemed essentially unenforceable against traveling foreign tourists, then the Commission should legalize the current illegal use of PMR 446 radios by visiting non-amateur non-US resident foreign nationals in the United States.

11. This Petitioner proposes that the Commission amend 47 CFR Part 97, and/or amend 47 CFR Part 95 Subpart B, and adopt rules & regulations that would permit the use of ITU Region 1 [FRS "like"] PMR 446 radios in the United States by visiting/transient/tourist non-amateur non-US resident foreign nationals on a license exempt secondary basis to primary ARS operations.

12. This Petitioner anticipates some opposition from the Amateur Radio community. As a general class ARS licensee, this Petitioner is sensitive to proposals that could infringe upon ARS spectrum. However, if ultimately adopted, this **PETITION** would have an extreme *de minimis* impact on existing ARS operations²⁰ and would further promote international *good-will* by not subjecting visiting non-amateur foreign nationals to unknown violations of the Commission's ARS rules and regulations.

IV.

CONCLUSION

13. Before the Commission is this **PETITION** requesting amendment of the 47 CFR Part 97 Amateur Radio Service (ARS) and/or amendment of 47 CFR Part 95 Subpart B Family Radio Service (FRS) rules.

14. This Petitioner is proposing a limited and restricted, license exempt, secondary use of the 446.0 - 446.1 MHz ARS band by visiting/transient/tourist non-amateur non-US resident foreign nationals, using eight (8) - (+/-) 0.0625 MHz channel offset, 0.5 watt ERP, PMR 446 [FRS type] transceivers, for which existing 47 CFR Part 97 rules against the use of such PMR 446 radios in the United States are essentially unenforceable.

15. This **PETITION** will have an extreme *de minimis* impact on existing ARS operations. As such, Amateur Radio community oppositions to this **PETITION**, though respected, would be misplaced and not in the international *public interest* or *good will*.

16. This Petitioner therefore respectfully requests the expedient issuance of a **NPRM** in response to this **PETITION**.

Respectfully submitted,

|s| ***Michael C. Trahos, D.O., NCE, CET***

Dr. Michael C. Trahos, D.O., NCE, CET

MCT/mct

V.

ENDNOTES

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- ¹ **ERC/DEC/(98)25**, ERC Decision of 23 November 1998 on the Harmonised Frequency Band to be Designated for PMR 446. [See also <http://www.ero.dk/doc98/official/Word/DEC9825E.DOC> and/or <http://www.ero.dk/doc98/official/pdf/DEC9825E.PDF> and/or <http://www.ero.dk/doc98/official/zip/DEC9825E.ZIP>.]
- ² **ERC/DEC/(98)26**, ERC Decision of 23 November 1998 on Exemption from Individual Licensing of PMR 446 Equipment. [See also <http://www.ero.dk/doc98/official/Word/DEC9826E.DOC> and/or <http://www.ero.dk/doc98/official/pdf/DEC9826E.PDF> and/or <http://www.ero.dk/doc98/official/zip/DEC9826E.ZIP>.]
- ³ **ERC/DEC/(98)27**, ERC Decision of 23 November 1998 on Free Circulation and Use of PMR 446 Equipment in CEPT Member Countries Enlarging the Field of Application of ERC/DEC/(95)01. [See also <http://www.ero.dk/doc98/official/Word/DEC9827E.DOC> and/or <http://www.ero.dk/doc98/official/pdf/DEC9827E.PDF> and/or <http://www.ero.dk/doc98/official/zip/DEC9827E.ZIP>.]
- ⁴ See DTI Press Release – 30 April 1999, **PMR 446 Service Introduced in the United Kingdom**, Notes for Editors, Paragraph 5. [See <http://www.radio.gov.uk/publication/press/1999/30apr99b.htm>.]
- ⁵ **NPRM**, WT Docket No. 95-102, RM-8499, FCC 95-261, June 22, 1995, 60 FR 45128, August 30, 1995. [See http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts?ws_mode=retrieve_list&id_proceeding=95-102&start=102&end=102&first_time=N.]
- ⁶ See **COMMENTS**, Dr. Michael C. Trahos, August 25, 1994, WT Docket No. 95-102, RM-8499. (http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts?ws_mode=retrieve_list&id_proceeding=95-102&start=115&end=115&first_time=N).
See **PETITION FOR RECONSIDERATION**, Dr. Michael C. Trahos, July 3, 1996, WT Docket No. 95-102, RM-8499. (http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts?ws_mode=retrieve_list&id_proceeding=95-102&start=15&end=15&first_time=N).
See **REPLY COMMENTS**, Dr. Michael C. Trahos, August 16, 1996, WT Docket No. 95-102, RM-8499. (http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts?ws_mode=retrieve_list&id_proceeding=95-102&start=8&end=8&first_time=N).
- ⁷ **REPORT & ORDER**, WT Docket No. 95-102, RM-8499, FCC 96-215, May 10, 1996, 61 FR 28768, June 6, 1996. [See http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts?ws_mode=retrieve_list&id_proceeding=95-102&start=16&end=16&first_time=N or <http://www.fcc.gov/Bureaus/Wireless/Orders/1996/fcc96215.txt>.]
MEMORANDUM OPINION & ORDER, WT Docket No. 95-102, RM-8499, FCC 98-293, October 30, 1998, 64 FR 14639, March 26, 1999. [See http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts?ws_mode=retrieve_list&id_proceeding=95-102&start=1&end=1&first_time=N or <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/fcc98293.txt> or <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/fcc98293.wp> (WP 5.1 document).]
- ⁸ **47 CFR 95.627**. [See <http://www.fcc.gov/mmb/asd/bickel/47CFRrule.html> and <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=95&SECTION=627&YEAR=2000&TYPE=TEXT>.]
- ⁹ **47 CFR 95.633**. [See <http://www.fcc.gov/mmb/asd/bickel/47CFRrule.html> and <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=95&SECTION=633&YEAR=2001&TYPE=TEXT>.]

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- ¹⁰ **47 CFR 95.639**. [See <http://www.fcc.gov/mmb/asd/bickel/47CFRrule.html> and <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=95&SECTION=639&YEAR=2001&TYPE=TEXT>.]
- ¹¹ **47 CFR 95.647**. [See <http://www.fcc.gov/mmb/asd/bickel/47CFRrule.html> and <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=95&SECTION=647&YEAR=2001&TYPE=TEXT>.]
- ¹² **PMR 446 Information Sheet**. [See http://www.radio.gov.uk/publication/ra_info/ra357.htm.]
- ¹³ **Ibid** at Endnote 4.
- ¹⁴ **Ibid**.
- ¹⁵ **UK Interface Requirement 2009 – Private Business Mobile Radio Operating in the License Exempt PMR 446 MHz Band**. [See <http://www.radio.gov.uk/publication/interface/word-pdf/ir2009.pdf>.]
- ¹⁶ **47 CFR 2.104(b)(1)**. [See <http://www.fcc.gov/mmb/asd/bickel/47CFRrule.html> and <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=2&SECTION=104&YEAR=2001&TYPE=TEXT>.]
- ¹⁷ **47 CFR 2.106**, International Footnote S5.270 & S5.284. [See <http://www.fcc.gov/mmb/asd/bickel/47CFRrule.html> and <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=2&SECTION=106&YEAR=2001&TYPE=TEXT>.]
- ¹⁸ **47 CFR 2.104(b)(2)**. [See <http://www.fcc.gov/mmb/asd/bickel/47CFRrule.html> and <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=2&SECTION=104&YEAR=2001&TYPE=TEXT>.]
- ¹⁹ **Ibid**, at Footnote 17.
- ²⁰ **ARRL 70cm BAND PLAN**. [See [http://www.arrl.org/FandES/field/regulations/bandplan.htm - 70cm](http://www.arrl.org/FandES/field/regulations/bandplan.htm-70cm).]
- The 446.0 – 446.1 MHz segment is predominately used for repeater output and simplex ARS operations.